

REMARKS

Any arguments made herein are only to be considered as to the claims to which the argument is directed. No estoppel is intended or should be taken to any other claims to which the arguments herein are not specifically directed.

Independent claims 1 and 15 have been amended to recite that the present invention operates by measuring a discrete temperature as opposed to a plurality of temperatures. Support for the amendments to claims 1 and 15 are found at the first full paragraph of page 31 of the specification. Claims 5 and 14 have been canceled. Claim 13 has been amended at the Examiner's suggestion. New claims 18 through 20 inclusive have been added. Support for claims 18 through 20 inclusive is found in claim 14 prior to its cancellation and at pages 27 and 30 of the specification.

Claims 1 through 4 inclusive, claims 6 through 13 inclusive and claims 15 through 20 inclusive remain in this application. Reconsideration of the pending claims is requested.

ARGUMENTS

Prior to discussing the nature of the rejections the applicant feels that a brief review of the claimed invention will be the Examiner in determining the differences between that which is claimed and the cited art.

The present invention is directed a method, a system, and a device all capable of accurately measuring the volume of a fluid in a container. Dependent claims 11 and 16 specifically relate to fluids associated with carbon dioxide such as beer.

It has been found in the applicant's research of determining the level of fluids as reflected per independent claims 1, 15, and 18 that a discrete temperature should be measured. As explained at page 30 of the applicant's specification by operating at a single discrete temperature the thermometric measuring device is more reliable in indicating fluid level than a device operating over a wide range of temperatures. While the applicant's claims may provide a range of suitable temperatures the method, system, and device operate at a discrete (single) temperature within a range.

Discussion of the 35 USC 103 Rejections

The Examiner has rejected claims 1 through 7 inclusive and 9 through 16 inclusive (and prospectively claims 18 through 20 inclusive) based on United States Patent 6,260,414 to Brown et al. (hereinafter the Brown et al. patent).

The Brown et al. patent consistently teaches utilizing compositions that measure temperature over a plurality of temperature changes, i.e. a bandwidth.

The liquid crystal composition employed by the instant invention exhibits color in response to temperature changes, occurring in the kegs environment, within the bandwidth of the liquid crystal composition. Brown et al., patent Column 6, line 37 et seq.

All of the independent claims in the present application state that the operation is at a single discrete temperature thereby providing accurate volume determination. Therefore, the Brown et al., patent fails to teach the claim limitations of the independent claims in the present application and should therefore be removed as a reference.

Claims 8 and 17 are rejected over the Brown et al., patent in view of United States Patent 4,028,118 to Nakasuji, et al. (hereinafter the Nakasuji, et al. patent). The Nakasuji, et al. patent does not appear to teach measuring any single discrete temperature but rather continually discusses a range of temperatures. The Nakasuji, et al., patent does not mention beer, carbon dioxide, or volume determinations.

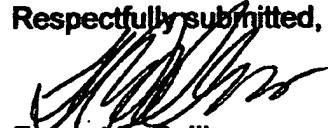
Thus, there is no reason to apply the teachings of the Nakasuji, et al., patent to the Brown et al., patent. Therefore, the Examiner should remove the rejections based on the Brown et al., patent in view of the Nakasuji, et al.

Summary

Claims 1 through 4 inclusive, claims 6 through 13 inclusive and claims 15 through 20 inclusive are pending and reconsideration, and removal, of the rejections made in the present Official Action is requested. Should questions concerning this application arise the Examiner is urged to telephone the undersigned to advance prosecution of this application. The applicant believes the application is in condition for allowance and such is earnestly solicited.

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